

Part 10 Processing Approvals and Issuing the Guarantee**244 Loan Approval****A Loan Limits**

The maximum FO or OL levels outlined in this subparagraph include the guaranteed loan being made plus any outstanding direct or guaranteed principal balances, as indicated, owed by anyone who will sign the promissory note.

The total outstanding combined guaranteed FO and OL principal balance cannot exceed *--\$782,000.

The total outstanding direct and guaranteed FO principal balance cannot exceed \$782,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$782,000.

The total combined outstanding direct and guaranteed FO and OL balance cannot exceed \$982,000.

The total combined outstanding direct and guaranteed FO, OL, and EM balance cannot exceed \$1,482,000.--*

Note: The dollar limit of guaranteed loans is adjusted annually based on the percentage change in the Prices Paid by Farmers Index, as compiled by USDA.

FSA personnel should refer to 1-FLP for information on loan approval authorities.

244 Loan Approval * * * (Continued)**B Submitting RD-1940-3 to the Loan Approval Official**

When the loan exceeds the Authorized Agency Official's approval authority, the Authorized Agency Official should send the approval official any information the approval official needs to evaluate the loan request, including the following:

- a completed RD-1940-3
- the loan approval screens from the appropriate automated system
- FSA-1980-25 for SEL and CLP loan applicants or FSA-1980-28 for PLP loan applicants
- FSA-1980-15 with recommended changes
- the balance sheet and cash flow statement (for SEL applicants)
- the loan narrative
- any other information the approval official requests.

Once the loan approval official executes RD-1940-3, the Authorized Agency Official may then proceed to execute all other loan-related documents, unless otherwise specified by the loan approval official.

C Lender Notification of Authorized Agency Official Decision

The lender should be informed of the approval decision in writing.

- If the application is approved and funds are available, the Authorized Agency Official *--shall prepare a letter to the lender (subparagraph D) and FSA-1980-15 and proceed to--* paragraph 245.
- If the application is approved and funds are not available, the Authorized Agency Official shall prepare a letter (subparagraph E) to the lender with a copy to the applicant, informing them the loan is approved, subject to the allocation of funding. This letter should inform the lender that funding is being requested and the loan should not be closed until they receive FSA-1980-15, agree to the conditions, and execute the document.
- If the application is rejected, the Authorized Agency Official shall prepare a letter to the lender with a copy to the applicant informing them the loan is rejected, the reasons for rejection, and their right to appeal the decision as outlined in 1-APP.

244 Loan Approval * * * (Continued)

D Example of Approval Letter When Funds Are Available

The following is an example of an approval letter when funds are available.

<p style="text-align: right;">Date: _____</p> <p>Dear _____:</p> <p>This letter is to certify that your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance has been approved and funds have been obligated.</p> <p>Enclosed is for FSA-1980-15 (Conditional Commitment) specifying the conditions you must meet to secure the guarantee. Please review these conditions, complete Part D of the form (Acceptance or Rejection of Conditions), and return it to this office by (insert date).</p> <p>If you have any questions, please contact this office.</p> <p style="text-align: right;">Sincerely,</p> <p style="text-align: right;">_____ (Title)</p>

244 Loan Approval * * * (Continued)**E Example of Approval Letter When Funds Are Not Available**

The following is an example of an approval letter when funds are not available.

<div>Date: _____</div> <div>Dear _____:</div> <div><p>This letter is to certify that your application on behalf of <i>(insert name of borrower/applicant)</i> for Farm Service Agency (FSA) loan guarantee assistance has been approved. However, funds are not available at this time to obligate the loan.</p><p>The loan will be placed on a waiting list based on the date the application was complete. If a substantial amount of time elapses before the loan is obligated, we may ask you to provide updated information. You should not close the loan until you receive an FSA 1980-15 (Conditional Commitment) indicating that the loan has been funded.</p><p>We appreciate your patience and understanding. If you have any questions, please contact this office.</p><div>Sincerely,</div><div>_____ (Title)</div></div>
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245 Agency Obligation of the Loan (7 CFR 762.130)**A Loan Obligation**

Loans are approved subject to the availability of funding. When it appears that there are not adequate funds to meet the needs of all approved loan applicants, applications that have been approved will be placed on a preference list according to the date of receipt of a complete application.

After the loan approval official executes RD-1940-3, it must be transmitted to SED for consideration of funding. SED may obligate funds or authorize the Authorized Agency Official to obligate funds. The Authorized Agency Official must review the automated system the following workday to determine whether the loan received a funding obligation. If the system indicates funds have been obligated for the loan, the Authorized Agency Official may proceed under subparagraph C and issue FSA-1980-15. If the system indicates that sufficient funds are not available, the Authorized Agency Official must proceed under subparagraph B and place the loan on the waiting list until sufficient funds are available for obligation.

FSA-1980-15 must never be executed until verification is received that funds have been obligated for the loan by the Finance Office.

Note: If a PLP lender receives an automatic approval of a loan because of FSA's failure to meet the 14-calendar-day response deadline, the lender may not close the loan until the Finance Office obligates funds and the lender receives FSA-1980-15.

B Funding Priorities

If the automated system indicates that funds are not available to obligate a loan, the Authorized Agency Official shall:

- not execute FSA-1980-15
- inform the lender that funds are not currently available
- place the loan on a waiting list based on the date the application was considered complete.

245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)**B Funding Priorities (Continued)**

If approved applications have been received on the same day, the following will be given priority:

- **an application from a veteran**
- **an application from an Agency direct loan borrower**
- **an application from a loan applicant who is described by 1 of the following:**
 - **has a dependent family**
 - **is an owner of livestock and farm implements necessary to successfully carry out farming operations**
 - **is able to make down payments**
- **any other approved application.**

The priority list will be maintained at the level where the funds have been allocated or suballocated.

When funds become available, applications will be funded in priority list order. If a substantial amount of time has elapsed between loan approval and obligation, the Authorized Agency Official may request updated information on the loan applicant.

245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)

C Issuing FSA-1980-15

After receiving confirmation from the automated system that funds have been obligated for the loan, the Authorized Agency Official may execute FSA-1980-15. Since FSA-1980-15 will be used by FSA in the event of a loss claim to determine the responsibilities of the lender, the Authorized Agency Official should give careful attention to its completion.

- **Loan Purposes.** The Authorized Agency Official should ensure that the specific purposes for which the loan funds will be used are detailed on FSA-1980-15. These *-purposes must be consistent with the purposes shown on FSA-1980-25 or FSA-1980-28 and any agreed modifications.
- **Security for the Loan.** The Authorized Agency Official should ensure that additional security items not listed on FSA-1980-25 and FSA-1980-28, but required by the Agency, are included on FSA-1980-15.
- **Electronic Applications.** If the lender submitted FSA-1980-25 or FSA-1980-28 electronically, then FSA-1980-15, item 17 should specify that the original, signed copy of the application be submitted with the loan closing documents.--*

In developing FSA-1980-15, the Authorized Agency Official shall tailor FSA-1980-15 to the specific borrower. Long lists of standard conditions developed for all borrowers should not be used. Each condition placed on the loan must be appropriate to the specific lending situation and produce a higher quality loan.

Issuing FSA-1980-15 with conditions is preferred to rejection of the request.

Example: If the security proposed by the lender will result in an inadequately secured loan, rather than deny the guarantee request, FSA-1980-15 may be executed, subject to the lender obtaining a lien on specified additional collateral.

Once FSA-1980-15 has been developed using the guidelines in this paragraph, the Authorized Agency Official shall submit FSA-1980-15 to the lender for execution according to paragraph 246.

246 Lender's Response to FSA-1980-15 (7 CFR 762.130(c))

A Accepting or Rejecting Conditions

The lender must meet all of the conditions specified in the FSA-1980-15 to secure final Agency approval of the guarantee. The lender, after reviewing the conditions listed on the FSA-1980-15, will complete, execute, and return the form to the Agency. If the conditions are not acceptable to the lender, the Agency may agree to alternatives or inform the lender and the loan applicant of their appeal rights.

*--When the lender receives FSA-1980-15, the lender should carefully review all the conditions. If the lender accepts all of the conditions, the lender should complete, sign, and return FSA-1980-15 to the Authorized Agency Official.

If the lender rejects the conditions, the lender may propose new conditions, along with justification for them. The Authorized Agency Official should review the new conditions--* and the lender's justification to determine whether they are acceptable to FSA. If the conditions cannot be accepted, the Authorized Agency Official should contact the lender to see if an agreement can be reached that is acceptable to both parties. If the new conditions are accepted or an agreement is reached, the conditions must then be reviewed and approved by the loan approval official before their incorporation in FSA-1980-15.

If, after all reasonable efforts have been made, an agreement cannot be reached, the Authorized Agency Official shall issue a rejection letter and inform the lender of its appeal rights according to 1-APP. Only after completion of the appeal may the Authorized Agency Official proceed with deobligation of funding in paragraph 250.

If a PLP lender rejects an 80 percent guarantee, received as a result of FSA not acting on a request within 14 calendar days, the Authorized Agency Official shall continue to process the request and issue a revised FSA-1980-15. If warranted, the revised FSA-1980-15 may contain conditions. The lender will have the option of accepting the 80 percent guarantee without conditions or come to an agreement with FSA on any conditions in the revised FSA-1980-15, and receive the requested level of guarantee.

246 Lender's Response to FSA-1980-15 (7 CFR 762.130(c)) (Continued)**B Executing and Extending FSA-1980-15**

Once the lender executes FSA-1980-15, it must be returned to FSA for final processing. Once both parties execute the document, the lender may proceed to close the loan within the timeframe allotted in FSA-1980-15. If an extension is needed, the Authorized Agency Official may grant an extension in writing to the lender. Before issuing an extension, the Authorized Agency Official should consider whether enough time has passed that would justify updated financial information or an updated application.

The Authorized Agency Official should track the expiration date of FSA-1980-15. If the lender fails to contact the Authorized Agency Official before the expiration of FSA-1980-15, the Authorized Agency Official should contact the lender about the status of the loan.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130)**A Lender's Actions**

After loan closing, the lender must submit the following to FSA before issuing FSA-1980-27:

- FSA-1980-22

Note: The lender will certify as to the following on the form:

- no major changes have been made in the lender's loan or line of credit conditions and requirements since submission of the application (except those approved in the interim by the Agency in writing)
- required hazard, flood, crop, worker's compensation, and personal life insurance (when required) are in effect
- truth in lending requirements have been met
- *--all equal employment and equal credit opportunity and--*
nondiscrimination requirements have been or will be met at the appropriate time

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- the loan or line of credit has been properly closed, and the required security instruments have been obtained, or will be obtained, on any acquired property that cannot be covered initially under State law
- the borrower has marketable title to the collateral owned by the borrower, subject to the instrument securing the loan or line of credit to be guaranteed and subject to any other exceptions approved in writing by the Agency

Note: When required, an assignment on all USDA crop and livestock program payments has been obtained.

- when required, personal, joint operation, partnership, or corporate guarantees have been obtained
- liens have been perfected and priorities are consistent with requirements of the conditional commitment
- loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application

Note: In line of credit cases, if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the conditional commitment and line of credit agreements.

- there has been no material adverse change in the borrower's condition, financial or otherwise, since submission of the application
- all other requirements specified in the conditional commitment have been met.

- RD-1980-19

Note: The lender must complete an Agency closing report form and return it to the Agency.

- *--a completed FSA-1980-25 or FSA-1980-28 with appropriate signatures if the lender submitted the application electronically--*

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- an acceptable appraisal from SEL's, if the guarantee was approved, subject to an appraisal

Note: SEL's should be encouraged to submit this appraisal to FSA before loan closing to ensure compliance with FSA requirements.

- FSA-1980-38

Note: The lender must execute the Agency's lender's agreement and deliver it to the Agency. If a current FSA-1980-38 is not on file with FSA, then one must be executed before issuance of FSA-1980-27.

- guarantee fee

Notes: A guarantee fee will be charged on all loans unless otherwise stated in this paragraph. **Guarantee fees are 1 percent and are calculated as follows:**

$$\text{Fee} = \text{Loan Amount} \times \% \text{ Guaranteed} \times .01.$$

The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds.

The following guaranteed loan transactions are not charged a fee:

- loans involving interest assistance
- loans where a majority of the funds are used to refinance an Agency direct loan
- * * * loans to farmers or ranchers involved in the direct beginning farmer downpayment program

Note: The beginning farmer downpayment loan program refers only to a direct FO made under FmHA Instruction 1943-A. Simply being defined as a beginning farmer will not qualify for a waiver of the fee.

- loans made under a State beginning farmer program where a memorandum of understanding between the State and USDA has been signed.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- a copy of the executed promissory note or loan agreement.

Note: The lender will use its own promissory notes, line of credit agreements, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided:

- the forms meet Agency requirements
- documents comply with State law and regulation
- the principal and interest repayment schedules are stated clearly in the notes and are consistent with the conditional commitment

***--Note:** A lender may use notes with short-term maturities for intermediate and long-term loans provided:

- the lender has indicated the intended term of the loan

Note: This may be done by entering the total number of years in the repayment period block of the application form.

- the subsequent note is a continuation of the original intended repayment plan and not a restructuring of a past due account
- there is a clear link between FSA-1980-27 and all the notes intended to be covered by FSA-1980-27. FSA-1980-27 references only the debt instrument used at loan closing. The necessary linkage may be established with a master note, a loan agreement, or by referring in the subsequent notes to the original debt instrument referenced on FSA-1980-27.--*

- the note is executed by the individual liable for the loan

Note: For entities, the note is executed by the member who is authorized to sign for the entity, and by all members of the entity as individuals. Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- **when the loan purpose is to refinance or restructure the lender's own debt, the lender may continue to use the existing debt instrument and attach an allonge that modifies the terms of the original note.**

In addition, the lender should take the following actions.

- Inform FSA of the lender's plans to market the loan to the secondary market. These plans must be consistent with Part 15. LOC's may be funded in participation with other lenders, but may not be sold into the secondary market.
- **The lender must notify the Agency of any scheduled inspections during construction and after the guarantee has been issued. The Agency may attend these field inspections. Any inspections or review performed by the Agency, including those with the lender, are for the benefit of the Agency only. Agency inspections do not relieve any other parties of their inspection responsibilities, nor can these parties rely on Agency inspections in any manner.**

B FSA Actions

Once FSA receives the information from the lender detailed in subparagraph A, the Authorized Agency Official must take the following actions before executing FSA-1980-27 to guarantee the loan.

- Review FSA-1980-15 to ensure that the loan closed according to the agreed conditions.
- Review the executed loan agreement and the promissory notes and compare with FSA-1980-15 to ensure consistency with the agreed upon terms and personal liability of entity members.
- Review the lender's proposed marketing plans to the secondary market. If the lender is proposing to sell the loan or a portion of the loan into the secondary market, documents should be checked to ensure consistency before sale. The Authorized Agency Official should take additional care to review FSA-1980-15, FSA-1980-27, the loan agreement, and the promissory notes to ensure the following:
- the principal amount and interest rate are consistent

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)**B FSA Actions (Continued)**

- the closing date on the note and guarantee are consistent
- *--the borrower's name, lender's name, and FSA contact information are consistent--* on all documents.
- For loans involving construction, review the lender's proposed plans for construction inspections and how they intend to ensure that the project is completed according to agreed upon terms.

248 Issuing FSA-1980-27**A Action**

Once the requirements of paragraph 247 have been met, the Authorized Agency Official may prepare and issue FSA-1980-27. The original FSA-1980-27 should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

B Documents To Be Transmitted to the Finance Office

Once FSA-1980-27 has been issued to the lender, the Authorized Agency Official should process the guarantee fee through the System 36 under the Miscellaneous Code of 30. Refer to 3-FI for additional guidance. The Loan Closing Transaction should be input through the GLS "Add Loan Screen".

249 Deobligation of Loan Funds**A Deobligation of Funds**

Under certain circumstances, the Authorized Agency Official may need to consider a deobligation of loan funds. If the conditions for the loan or LOC cannot be met after completing the appeal process, the Authorized Agency Official must execute FSA-1940-10 to cancel the actual obligation. FSA-1940-10 should be FAXed to the State Office which will process the cancellation or deobligation through GLS.

250 Replacing or Terminating FSA-1980-27 (7 CFR 762.101 and 762.130)**A Replacing FSA-1980-27**

If the guarantee or assignment guarantee agreements are lost, stolen, destroyed, mutilated, or defaced, except where the evidence of debt was or is a bearer instrument, the Agency will issue a replacement to the lender or holder upon receipt of acceptable documentation, including a certificate of loss or an indemnity bond. It is the responsibility of the lender to coordinate the replacement activities with the holder and submit the required documents to SED for processing. SED shall contact the National Office for further guidance when replacing FSA-1980-27.

B Terminating FSA-1980-27

The Loan Guarantee will automatically terminate as follows:

- **upon full payment of the guaranteed loan**

Note: A zero balance within the period authorized for advances on a line of credit will not terminate the guarantee.

- **upon payment of a final loss claim**
- **upon written notice from the lender to the Agency that a guarantee is no longer desired provided the lender holds all of the guaranteed portion of the loan. The Loan Guarantee will be returned to the Agency office for cancellation within 30 days of the date of the notice by the lender.**

251-261 (Reserved)

